

BAKER & HOSTETLER LLP

45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Nicholas J. Cremona
Michael R. Matthias

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

ESTATE OF JAMES HELLER, BARBARA H.
FRIETAG, as personal representative, STEVEN P.
HELLER, as personal representative, HARRY H.
FALK, as personal representative, STEVEN P.
HELLER REVOCABLE TRUST, a Florida trust,
and ROBERT P. SALTSMAN, as trustee,

Defendants.

Adv. Pro. No. 10-05419 (SMB)

**STIPULATION AND ORDER FOR
VOLUNTARY DISMISSAL OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through his counsel, Baker & Hostetler LLP, and defendants Estate of James Heller, Barbara H. Frietag, Steven P. Heller and Harry H. Falk, as personal representatives, Steven P. Heller Revocable Trust, and Robert P. Saltsman, as trustee (“Defendants”), by and through their counsel, Frejka PLLC (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 10, 2010, the Trustee filed the Complaint against Defendants.
2. On January 17, 2014, Defendants served an Answer to the Complaint on the Trustee.
3. Pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181], the Parties entered into a Settlement Agreement and Release on October 31, 2016.
4. Pursuant to the terms of the Settlement Agreement and Release, and in accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding and dismissing the adversary proceeding without prejudice, subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding in the event of an uncured default in the payments due pursuant to the Settlement Agreement to seek enforcement of the Settlement Agreement. Upon the Trustee’s receipt of the full Settlement Payment as set forth in the Settlement Agreement, and provided there is no default under the Settlement Agreement, this dismissal shall be deemed with

prejudice.

5. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

6. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: December 27, 2016

Of Counsel:

BAKER & HOSTETLER LLP

11601 Wilshire Boulevard, 14th Floor
Los Angeles, California 90025-7120
Telephone: (310) 820-8800
Facsimile: (310) 820-8859
Michael R. Matthias
Email: mmatthias@bakerlaw.com

BAKER & HOSTETLER LLP

By: /s/ Nicholas J. Cremona

45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Nicholas J. Cremona
Email: ncremona@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities
LLC and the Estate of Bernard L. Madoff*

FREJKA PLLC

By: /s/ Elise S. Frejka

Elise S. Frejka
205 East 42nd Street, 20th Floor
New York, New York 10017
Telephone: (212) 641-0800
Elise S. Frejka
Email: efrejka@frejka.com

Attorneys for Defendants

SO ORDERED

Dated: December 27th, 2016
New York, New York

/s/ STUART M. BERNSTEIN
HON. STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE